

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES,

Plaintiff,

v.

YANCEY F. BAKER,

Defendant/Petitioner.

05-5390
CAUSE NO: A4665423

FINDINGS AND ORDER ACCEPTING
DEFENDANT FOR DEFERRED
PROSECUTION, APPROVING
TREATMENT PLAN, AND DIRECTING
DEFENDANT TO TAKE TREATMENT
AS PRESCRIBED

(Clerk's Action Required)

THIS MATTER, coming on for hearing this 24 day of August 2005, upon the Defendant's Petition for Deferred Prosecution; the Defendant appearing in person and by his attorney, ROGER C. CARTWRIGHT, and the United States of America being represented by CAPT. GLEN TEMPLETON, Assistant United States Attorney; the Court, having examined and incorporated into the record Petitioner's Petition and Statement in support of deferred prosecution, the evaluation and treatment report prepared by Department of the Army Substance Abuse Program, Jolee N. Darnell, MSW, LICSW, Clinical Director,

ORDER
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LAW OFFICES OF ROGER C. CARTWRIGHT
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1 and the files and records herein, being fully advised in the premises, does now make and
2 enter the following:

3 I. FINDINGS OF FACT

4 A. On or about the 16th day of April, 2005, the Petitioner was charged with the offense
5 charged in the Information. This offense occurred as a direct result of alcoholism
6 problems;

7 B. Petitioner suffers from an alcohol problem and is in need of treatment;

8 C. The probability of similar misconduct in the future is great if the problem is not
9 treated;

10 D. Petitioner is amenable to treatment;

11 E. An effective rehabilitative treatment plan is available to Petitioner through the
12 Department of the Army Substance Abuse Program, an approved treatment facility
13 as designated by the laws of the State of Washington, and Petitioner agrees to be
14 liable for all costs of this treatment program;

15 F. That the Petitioner agrees to comply with the terms and conditions of the program
16 offered by the treatment facility as set forth in the diagnostic evaluation from The
17 Department of Army Substance Abuse Program, attached to Statement of Petitioner
18 filed herewith, and that Petitioner agrees to be liable for all costs of this treatment
19 program;

20 G. That Petitioner has knowingly and voluntarily stipulated to the admissibility and
21 sufficiency of the facts as contained in the written police report attached to
22 Statement of Petitioner filed herewith;

1 H. That Petitioner has acknowledged the admissibility of the stipulated facts in any
2 criminal hearing or trial on the underlying offense held subsequent to revocation of
3 this Order Granting Deferred Prosecution and that these reports will be used to
4 support a finding of guilt.

5 From the foregoing Finding of Fact, the Court draws the following:

6 **II. CONCLUSION OF LAW**

7 A. That the above-entitled Court has jurisdiction over the subject matter and
8 Defendant, YANCEY F. BAKER, in this case;

9 B. That the Petitioner's Petition for Deferred Prosecution meets the requirements of
10 RCW 10.05 *et seq.*;

11 C. That the diagnostic evaluation and commitment to treatment meets the
12 requirements of RCW 10.05.150;

13 D. That Petitioner is eligible for deferred prosecution.

14 **III. ORDER**

15 Having made and entered the foregoing Finding of Fact and Conclusions of Law,
16 it is hereby:

17 ORDERED, ADJUDGED, and DECREED that the Defendant is accepted for
18 deferred prosecution. The prosecution of the above-entitled matter is hereby deferred for
19 five (5) years pursuant to RCW 10.05 *et seq.*, upon the following terms and conditions:

20 A. Petitioner shall be on probation for the deferral period and follow the rules
21 and regulations of probation;

22 B. Petitioner shall enroll in and successfully complete the two-year treatment
23 program recommended by the VA according to the terms and conditions of
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1 that plan as outlined in the diagnostic evaluation, a true copy of which is
2 attached to the petition and incorporated herein by reference. Petitioner
3 shall not change treatment agencies without prior probation approval;

4 C. The treatment facility shall file with the United States Probation Office status
5 reports of Petitioner's compliance with treatment, monthly during the first
6 year of the deferred prosecution period and every three (3) months during
7 the second year. The Court may increase the frequency of these reports at
8 its discretion;

9 D. Petitioner shall notify U.S. Probation within 72 hours of any residence
10 change;

11 E. Petitioner shall abstain during the deferred prosecution period from any an
12 all consumption of alcoholic beverages and/or nonprescribed mind-altering
13 drugs;

14 F. Petitioner shall not operate a motor vehicle on the public highways without
15 a valid operator's license and proof of liability insurance sufficient to comply
16 with the state laws on financial responsibility;

17 G. Petitioner shall be law-abiding and shall not commit any alcohol/drug related
18 offenses or other criminal offenses during the period of deferral;

19 H. Petitioner shall notify U.S. Probation within 72 hours of being arrested,
20 questioned, or cited by Law Enforcement;

21 I. In the event that Petitioner fails or neglects to carry out and fulfil any term or
22 condition of his treatment plan or violates any provision of this Order or any
23 rule or regulation of his probation officer, upon receiving notice, the Court
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1 shall hold a hearing to determine why Petitioner should not be removed from
2 deferred prosecution and prosecuted for the offense(s) charged;

3 J. In the event the Court finds cause to revoke this deferred prosecution, the
4 stipulated police reports shall be admitted into evidence, and Petitioner shall
5 his guilt or innocence determined by the Court;

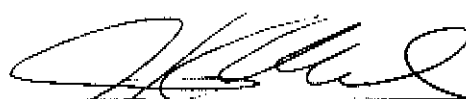
6 K. That the statement of Petitioner for deferred prosecution shall remain sealed,
7 and all subsequent reports or documents relating to her treatment
8 information shall be sealed, to maintain confidentiality of Petitioner's
9 treatment information;

10 L. That the Department of Licensing be notified of this Order accepting the
11 Petitioner for deferred prosecution;

12 M. Upon proof of Petitioner's successful completion of five (5) years deferral
13 period in this Order, the Court shall dismiss the charges pending against
14 Petitioner;

15 N. Additional conditions:

16 DONE IN OPEN COURT this 24 day of August, 2005

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UNITED STATE MAGISTRATE JUDGE

19 Presented by:

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22 ROGER CARTWRIGHT
23 WSBA No. 20140
24 Attorney for Defendant

25 ORDER FOR DEFERRED PROSECUTION

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1 I have received a copy of the foregoing Order of Deferred Prosecution. I have read
2 and understand its contents, and agree to abide by the terms and conditions set forth
3 herein.

4
5 Dated: 20 July 05


YANCEY F. BAKER, Petitioner

6 I certify that a copy of this signed Order was mailed to the subject treatment facility,
7 on August 26, 2005. The United State Probation Office was also furnished
8 a copy of this Order.

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Clerk

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25 ORDER FOR DEFERRED PROSECUTION

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